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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/480,345	01/10/2000	DAVID WAYNE MASKER	9D-HR-19109	4211

7590 10/18/2002
Corporate Patent Counsel
Philips Electronics North America Corporation
580 White Plains Road
Tarrytown, NY 10591

INCORRECT ADDRESS

EXAMINER

HARRIS, ERICA B

ART UNIT PAPER NUMBER

3634

DATE MAILED: 10/18/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/480,345

Applicant(s)

MASKER ET AL.

Examiner

Erica B Harris

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 January 2000.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 January 2000 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>9</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Specification

1. The disclosure is objected to because of the following informalities:
on page 3, line 9, "In Figure" should be --in Figure--;
on page 5, line 27, "cross support 16" should be --cross support 14--; and
on page 7, line 19, "plate 12" should be --plate 82--.

Appropriate correction is required.

Drawings

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the frame connected to the cross support (claim 6) and the frame comprising a bracket that is connected to the cross support (claim 11) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.
3. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "58" has been used to designate both a barrier portion and a sealing adhesive on page 5 of the specification and in Figure 5.
4. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: reference numbers "60" (Figure 5), "108" (Figure 8), and "120" (Figure 9).
5. The drawings are objected to because

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the lead line from reference number "96" on the left side of Figure 8 is not drawn to the "side edge" of the plate;

in Figure 9, the lead line from reference number "124" should end in an arrow because it denotes a structure that is further defined by additional reference numbers; and

in Figure 11, reference number "120" should be --122-- because it is a cross sectional view of the frame of Figure 10.

6. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Claim Objections

7. Claim 6 is objected to because of the following informalities: line 5, "plate first surface" should be --plate second surface--. Appropriate correction is required.

Claim Rejections - 35 USC § 112

8. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

9. Claims 6-13 are rejected under 35 U.S.C. 112, first paragraph, because the specification, while being enabling for adhering the frame to the side support, does not reasonably provide enablement for adhering said frame to the cross support. The specification does not enable any

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person skilled in the art to which it pertains, or with which it is most nearly connected, to make the invention commensurate in scope with these claims the invention commensurate in scope with these claims. The specification teaches one to adhere cross supports to a first surface of a plate and to adhere a frame to a second surface of a plate to create a spillproof seal around the periphery of said shelf. Each embodiment only discloses that the cross support is adhered to one side while the frame is adhered to the other with each being capable of adhering to side supports. A direct connection between the frame and the cross supports is not disclosed.

10. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

11. Claims 3 and 5 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

12. Claim 3 recites the limitation "the side support" in line 3. There is insufficient antecedent basis for this limitation in the claim.

13. Claim 5 recites the limitation "the cross support" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

14. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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15. Claims 1, 6, 7, and 10-18 are rejected under 35 U.S.C. 102(b) as being anticipated by Bussan et al. (4,934,541). In Figures 1-4, Bussan disclose a shelf 12 for a refrigerator 10, said shelf comprising a substantially flat plate 20 including a first surface and a second surface 62 and an outer periphery 48; at least one cross support 50 extending below said plate first surface; a frame 58 adhered to said outer periphery of said plate second surface with a solid adhesive seal 80 retained in a channel on the underside of said frame defined by lip 60 and flange 70 and forming a spill containment area defined by sealing lip 60; and at least one side support 22,24 connected to said cross support and configured for attachment to said refrigerator on tracks 26,28, said frame adhered to said side support. The frame further comprises a bracket 32 connected to said side support 22,24, wherein said frame comprises molded plastic. Bussan further teaches the application of adhesive to said frame and then adhering said frame to said second surface of said plate in column 3, lines 50-58.

Claim Rejections - 35 USC § 103

16. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

17. Claims 2-5, 8, 9, 19, and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bussan et al. as applied to claims 1, 6, 7, and 10-18 above, and further in view of Caruso et al. (5,641,217). All of the limitations of these claims have been disclosed above by Bussan et al. with the exception of at least one cross support and at least one side support being adhered

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to the first surface of said plate. Caruso, in Figure 7, discloses a shelf having at least one cross support 28 having an adhesive which adheres said cross support to a first side of said shelf, wherein said adhesive is a solid adhesive. The shelf of Caruso further comprises at least one side support 16 that is adhered to the first surface of said plate by means of the adhesive on cross support 28 when said cross support is mounted in slot 62 of said side support. To one of ordinary skill in the art at the time the invention was made, it would have been obvious to adhere the cross and side supports of Bussan et al. to the first surface of said plate, as taught by Caruso et al., in order to increase the load bearing capacity of said shelf.

Conclusion

18. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Erica B Harris whose telephone number is 703-306-9071. The examiner can normally be reached on 9-5:30 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P Stodola can be reached on 703-308-2686. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-3597 for regular communications and 703-872-9327 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-2168.



Erica B. Harris
October 15, 2002



DANIEL P. STODOLA
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600